

1 BILL NO. S-83-11-46

2 SPECIAL ORDINANCE NO. S-252-83

3 AN ORDINANCE approving a Contract
4 by the City of Fort Wayne by and
through its Board of Public Works
5 and Dailey Asphalt Products Co.,
Inc. for Res. #5993-83, Pontiac
Street Resurfacing.

6
7 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
8 THE CITY OF FORT WAYNE, INDIANA:

9 SECTION 1. The annexed Contract, made a part hereof,
10 by the City of Fort Wayne by and through its Board of Public
11 Works and Dailey Asphalt Products Co., Inc., for Res. #5993-83,
12 Pontiac St. Resurfacing, is hereby ratified, and affirmed and
13 approved in all respects. The work under said Contract requires:

14 improvement by cold planing and resurfacing
15 Pontiac Street from Lafayette Street to
Anthony Blvd.;

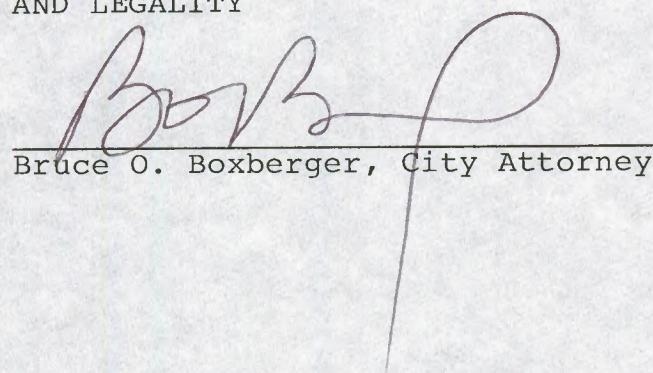
16 the Contract price is Ninety-Four Thousand Five Hundred Ninety-
17 Five and No/100 Dollars (\$94,595.00).

18 SECTION 2. Prior Approval was received from Council
19 with respect to this Contract on October 4, 1983. Two (2) copies
20 of the Contract attached hereto are on file with the City Clerk,
21 and are available for public inspection.

22 SECTION 3. That this Ordinance shall be in full force
23 and effect from and after its passage and any and all necessary
24 approval by the Mayor.

25
26 
27 Councilmember

28 APPROVED AS TO FORM
29 AND LEGALITY

30 
31 Bruce O. Boxberger, City Attorney

32

Read the first time in full and on motion by Talarico,
seconded by Glen, and duly adopted, read the second time
by title and referred to the Committee Public Works (and the City
Plan Commission for recommendation) and Public Hearing to be held after
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,
Indiana, on 11/22/83, the 11 day of November, 1983, at 10:00 o'clock A.M., E.S.T.

DATE: 11/22/83

Sandra F. Kennedy
CITY CLERK

Read the third time in full and on motion by Talarico,
seconded by Gia Quinta, and duly adopted, placed on its
passage. PASSED (Lost) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>BRADBURY</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>BURNS</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>EISBART</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>GiaQUINTA</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>SCHMIDT</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>SCHOMBURG</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>SCRUGGS</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>STIER</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>TALARICO</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>

DATE: 12-13-83

Sandra F. Kennedy
- CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL)
(APPROPRIATION) ORDINANCE (RESOLUTION) NO. 1-052-83
on the 13th day of December, 1983.

ATTEST:

Sandra F. Kennedy
CITY CLERK

(SEAL)

Barry A. Ebert
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 14th day of December, 1983, at the hour of
1:00 o'clock P.M., E.S.T.

Sandra F. Kennedy
CITY CLERK

Approved and signed by me this 15th day of December
1983, at the hour of 3 o'clock P.M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR. - MAYOR

CONTRACT

73-207-19
10/26/83

This Agreement, made and entered into this 26th day of October, 1983

by and between DAILEY ASPHALT PRODUCTS CO., INC.
1122 THOMAS ROAD, FORT WAYNE, INDIANA 46804

hereinafter called "Contractor" and the City of Fort Wayne, Indiana, a municipal corporation, herein-after called "City," under and by virtue of an act of the General Assembly of the State of Indiana, entitled "An Act Concerning Municipal Corporations," approved March 6, 1905, and all amendatory and supplementary acts thereto, WITNESSETH: That the Contractor covenants and agrees to im-

Improvement Resolution No. 5993-83
prove by cold planing and resurfacing Pontiac Street from Lafayette Street to

Anthony Boulevard.

(SEE ADDENDUM NO. 1)

by grading and paving the roadway to a width of XXXXXXXXXXXXXXXXXXXX feet with XXXXXXXXXXXXXXXXXXXX
XX

upon a foundation and with curbing as fully set out in the specifications hereinafter referred to, in a good and workmanlike manner and to the entire satisfaction of said City, in accordance with Improvement Resolution No. 5993-83 attached hereto and by reference made a part hereof.

At the following prices:

Rail Removal	Five dollars and no cents per cubic yard	5.00
Pavement Removal	One dollar and thirty cents per square yard	1.30
H.A.C. Base #5-D	Twenty dollars and no cents per ton	20.00
H.A.C. #11 Binder	Twenty-one dollars and no cents per ton	21.00
H.A.C. #A-2 Surface	Twenty-three dollars and no cents per ton	23.00
Joint & Crack Sealer	Four hundred dollars and no cents per ton	400.00
Adjust Water Valves to Grade	Sixty dollars and no cents per each	60.00
Adjust Castings to Grade	One hundred and twenty-five dollars and no cents per each	125.00
New Casting Type "A" Furnished & Adjusted	Two hundred and thirty-five dollars and no cents per each	235.00
Cold Planing	One dollar and twenty-two cents per square yard	1.22
Total	Ninety-four thousand, five hundred and ninety-five dollars and no cents	\$94,595.00

The Contractor hereby expressly agrees to perform all the work in the prosecution of the improvement, mentioned in this agreement according to the terms and conditions of Improvement Resolution No. 5993-83, the profile, specifications and the contractor's bid therefor on file in the office of the Department of Public Works of said City, which said resolution, profile, plans and specifications are made a part of this contract as fully and effectually as if copied herein at full length, (copies of which are attached hereto).

It is hereby agreed that no assignment of this contract shall be made without the written consent of the City; said Contractor hereby covenants and agrees that said improvement shall be finally

* See Liquidated Damages Provision
and in all respects completed on or before *Nov. 15, 1983 and the Contractor agrees to pay and give to the City, as liquidated damages, the sum of \$25.00 for each and every day after said

date _____, 19____ until said work is finally completed and ready for acceptance by the City. It being also understood that in event of any conflict between this contract and the specifications, that the former shall be considered to contain the intention of the parties hereto.

It is further agreed by and between said parties, that the acceptance of the work provided for in this contract, or the payment therefor, for the whole or a part, shall not constitute a waiver on the part of the City of any of the provisions of the contract, nor shall it release said Contractor, or the sureties upon its bond for the faithful performance thereof, nor shall the acceptance be even *prima facie* evidence of the performance of any provisions of such contract except to the extent of entitling said Contractor to receive the price therefor. It is further understood that the failure of the City to exercise its right of inspection or rejection of material and work, or the exercise of such right shall not in any sense be considered an acceptance of any part of said work or material.

The Contractor further contracts and agrees that in the prosecution of said work all proper skill and care will be exercised, that said party will properly and fully guard all excavations and dangerous places, and will use all due and proper precautions to prevent injury to any property, person and persons, what or whomsoever. That for and during the period of the making of such improvement, and the period for which the same is to be maintained and kept in repair by the Contractor, the City shall be saved harmless from any and all liability whatsoever growing out of any injury or damage to property or persons because of any neglect or fault of the said Contractor, its agents or employees, in the execution of this contract or any matter connected therewith or related thereto and to pay any judgment with costs which may be obtained against said City, growing out of any such injury or damage.

To each of the conditions and stipulations in this contract, the undersigned bind themselves, their successors and assigns.

IN WITNESS WHEREOF, we the foregoing named parties hereunto set our hands this 26th day of October, 1983

ATTEST:

Terrell J. Gasper
Corporate Secretary

DAILEY ASPHALT PRODUCTS CO., INC.

BY: HW Daily Jr
ITS: Pres

Contractor, Party of the First Part.

City of Fort Wayne, By and Through:

John H. Gaskins
Jack Wilson
Its Board of Public Works and Mayor.

ATTEST:

Helen D. Gochermann
Secretary and Clerk

PERFORMANCE AND GUARANTEE BOND

KNOW ALL MEN BY THESE PRESENTS, that we DAILEY ASPHALT PRODUCTS CO., INC. as Principal, and the _____

_____, a corporation organized under the laws of the State of _____, and duly authorized to transact business in the State of Indiana, as Surety, are held firmly bound unto the City of Fort Wayne, Indiana, an Indiana Municipal Corporation in the sum of NINETY-FOUR THOUSAND, FIVE HUNDRED AND NINETY-FIVE DOLLARS AND NO CENTS -----
(\$94,595.00-----), for the payment whereof well and truly to be made, the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents. The condition of the above obligation is such that

WHEREAS, the Principal did on the 26th day of October, 1983, enter into a contract with the City of Fort Wayne to construct

Improvement Resolution No. 5993-83

To improve by cold planing and resurfacing Pontiac Street from Lafayette Street to Anthony Boulevard.

at a cost of \$ 94,595.00-----, according to certain plans and specifications prepared by or approved by the City.

WHEREAS, the grant of authority by City to so construct such improvement provides:

1. That said improvement shall be completed according to said plans and specifications, and contractor shall warrant and guarantee all work, material, and conditions of the improvement for a period of three (3) years from the date of final acceptance in writing by the Owner;
2. There shall be filed with the City, within thirty (30) days after completion, a Completion Affidavit;
3. Said Principal is required to agree to make such adjustments, modifications, and repairs as required by the City within thirty (30) days after notice.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications.

NOW THEREFORE, if the principal shall faithfully perform all of the terms and conditions required of it by the contract and shall for three (3) years after acceptance of said improvement by City warrant and guarantee said improvement and shall indemnify the City for all loss that City may sustain by reason of the Principal's failure to comply with any of the terms of the authorization, then this obligation shall be void, otherwise it shall remain in full force and effect.

DAILEY ASPHALT PRODUCTS COMPANY, INC.

(Contractor)

BY: LW Dailey Jr

ITS: Pres

ATTEST:

Donald J. Casper
Sing Pres
(Title)

ST. PAUL FIRE & MARINE INSURANCE COMPANY
Surety

*BY. Donald J. Casper
Authorized Agent
(Attorney-in-Fact)

*If signed by an agent, power of attorney must be attached

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

DAILEY ASPHALT PRODUCTS COMPANY, INC.

(Name of Contractor)

1122 Thomas Road, Fort Wayne, Indiana 46804

(Address)

, hereinafter called Principal,

(Corporation, Partnership or Individual)

and

(Name of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation in the penal sum of NINETY-FOUR THOUSAND, FIVE HUNDRED AND NINETY-FIVE DOLLARS AND NO CENTS -----

for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the 26th day of October, 1983, for the construction of:

Improvement Resolution No. 5993-83

To improve by cold planing and resurfacing Pontiac Street from Lafayette Street to Anthony Boulevard.

at a cost of NINETY-FOUR THOUSAND, FIVE HUNDRED AND NINETY-FIVE DOLLARS AND NO CENTS (\$ 94,595.00-----), all according to Fort Wayne Street Engineering Department plans and specifications.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

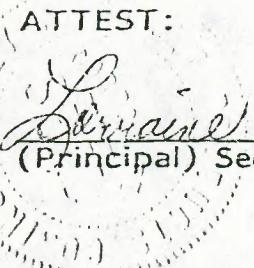
WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

Now, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed in 3 counter-parts, each one of which shall be deemed an original, this 26th day of October, 1983.

(SEAL)

ATTEST:


Barbara J. Casper
(Principal) Secretary

DAILEY ASPHALT PRODUCTS COMPANY, INC.
Principal

BY LW Dailey Jr.
President
(Title)

(Address)

Donald J. Avers
Witness as to Principal

1122 Illinois St.
(Address)

FWayne, Inc. 46804

ST. PAUL FIRE & MARINE INSURANCE COMPANY
Surety
BY Donald J. Avers
Attorney-in-Fact
(Authorized Agent)

201 West Wayne Street

Fort Wayne, IN 46802

(Address)

201 West Wayne Street
(Address)

Fort Wayne, IN 46802

NOTE: Date of Bond must not be prior to date of Contract.
If Contractor is Partnership, all partners should execute bond.

BILL NO. S-83-11-46

REPORT OF THE COMMITTEE ON PUBLIC WORKS

WE, YOUR COMMITTEE ON Public Works TO WHOM WAS REFERRED AN ORDINANCE approving a Contract by the City of Fort Wayne by and through its Board of Public Works and Dailey Asphalt Products Co., Inc. for Res. #5993-83, Pontiac Street Resurfacing 10/4/83

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

SAMUEL J. TALARICO, CHAIRMAN

Samuel J. Talarico

VICTURE L. SCRUGGS, VICE CHAIRMAN

Victure Scruggs

MARK E. GIAQUINTA

Mark E. GiaQuinta

PAUL M. BURNS

Paul M. Burns

ROY J. SCHOMBURG

*Concurred
12-13-83*

b7d Admin. Appr.

TITLE OF ORDINANCE Contract for Res. 5993-83, Pontiac Street Resurfacing

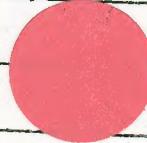
DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS

83-11-46

SYNOPSIS OF ORDINANCE This is for improvement by cold planing & resurfacing

Pontiac Street from Lafayette Street to Anthony Blvd. Dailey Asphalt
Products Co., Inc. Contractor.

PRIOR APPROVAL RECEIVED 10/4/83



EFFECT OF PASSAGE Improvement of above area.

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$94,595.00

ASSIGNED TO COMMITTEE